IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6458 of 2007

(CRIME NO. 252/2007 OF KURATHIKKAD POLICE STATION

PETITIONERS/ACCUSED 1 AND 2 IN CRIME NO.252/07

1. ABIDHA BEEVI, AGED 54 YEARS,
W/O.SRI.ALI HUSSAIN, KALAM MANZIL,
VATTIYAR MURI, VATTIYAR VILLAGE, MAKKAKUZHI,
MAVELIKARA.

2. ALI HUSSAIN, AGED 56 YEARS,
KALAM MANZIL, VATTIYAR MURI, VATTIYAR VILLAGE,
MAKKAKUZHI, MAVELIKARA.

BY ADV. SRI.P.GOPAKUMARAN NAIR

RESPONDENTS: COMPLAINANT IN CRIME NO.252/07

STATE OF KERALA, REPRESENTED BY
THE PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6458 of 2007

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Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are father in law and mother in law of the defacto complainant. They face allegations, inter alia, under Sec.498A IPC. There was evidently strain in their relationship between them and the de facto complainant/ daughter in law. An earlier crime was registered on 9.9.07 as Crime No. 236/07 against the de facto complainant and others before the same police station under Section 452,323 and 324 read with 34 IPC. In the present crime it is alleged that on 28.9.07, the de facto complainant was assaulted by her parents in law. The crime was registered on the basis of the complaint by the de facto complainant. The investigation is in progress. The petitioners apprehend imminent arrest.

2. The de facto complainant was taken to the hospital and it is from there that the FI statement was given. The learned counsel for the petitioner submits that the petitioners are innocent. There is strain in the matrimony. Such strain has prompted the defacto complainant to make false and vexatious allegations, submits the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The

learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The learned Public Prosecutor was requested to take instructions to explain whether any serious injuries were suffered by the de facto complainant. The learned Public Prosecutor submits that the injured/ de facto complainant has not suffered any external injury. There were allegations of pain by her. It is also seen that the allegations raised before the doctor do not tally with the allegations raised in the FI statement. A weapon is alleged to have been used in the statement made to the doctor, whereas, no such allegations are raised in the FI statement.

4. Having considered all the relevant inputs ,I am satisfied that anticipatory bail can be granted to the petitioners- parents in law who are aged 54 and 56 years respectively.

5. In the result, this application is allowed. The following directions were issued under Section 438 Cr.P.C.:-

i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m on 31.10.2007. They shall be enlarged on regular bail on their executing bonds for Rs.25,000/-(Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m on 1.11.07 and 2.11.07 and the petitioners shall so appear before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month and thereafter as and when directed by the Investigating Officer, in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(iv) If they were arrested prior to 31.10.2007, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 31.10.2007.

(R.BASANT, JUDGE)

sj

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P.A.TO JUDGE